

**Fact Sheet:** Fundamental Freedoms Series: Distribution of Leaflets

**Fundamental Freedom:** Freedom of Expression



**Snapshot:** The crackdown on the distribution of anti-government leaflets illustrates the extent to which the Royal Government of Cambodia (the “RGC”) is suppressing freedom of expression. This abuse, by the executive and judiciary alike, threatens democratic process and is of paramount concern in the context of the numerous arrests and convictions for such activities in recent months.

## Introduction

This factsheet provides an overview of the fundamental right to freedom of expression, specifically in relation to the recent crackdown on the distribution of leaflets which express criticism of the RGC. These developments raise serious concerns about the extent to which the right to freedom of expression is curbed and restricted in Cambodia. This fact sheet is written by the Cambodian Center for Human Rights (“CCHR”), a non-aligned, independent, non-governmental organization that works to promote and protect democracy and respect for human rights – primarily civil and political rights – throughout Cambodia.

## Freedom of expression – domestic and international law

The Constitution of the Kingdom of Cambodia (the “Constitution”) guarantees to Khmer citizens in Article 41 “*freedom of expression, press, publication and assembly*”. The right to freedom of expression – which includes the right to receive, seek and impart information and ideas orally, in writing or in print – is also guaranteed under international law by virtue of Articles 19 of the Universal Declaration of Human Rights (the “UDHR”) and the International Covenant on Civil and Political Rights (the “ICCPR”) respectively. Article 31 of the Constitution states that Cambodia will adhere to and respect the rights included in the UDHR and international covenants, thereby further incorporating the right to freedom of expression into Cambodian domestic law. Article 19 of the ICCPR recognizes that restrictions to freedom of expression are permitted in very limited circumstances provided that any such restriction meets a three-tier test that it is (1) provided for by law; (2) one of the legitimate restrictions recognized by international law; and (3) necessary.

## Freedom of expression and the distribution of leaflets

Despite the guarantees to freedom of expression, the democratic space to exercise free expression in Cambodia is shrinking rapidly. Current concerns surround a recent trend of convictions aimed at those involved in the distribution of leaflets criticizing the RGC. Distribution of such information constitutes a valid and legal exercise of one’s freedom of expression in a peaceful manner and should not be restricted by the state, except in the limited circumstances that are prescribed under international law, which must be strictly interpreted. Nevertheless, a series of cases and convictions illustrate the extent to which freedom of expression is being suppressed in Cambodia:

- On 30 August 2010 four men stood trial accused of distributing anti-government leaflets in Takeo province that criticized perceived links between the Cambodian and Vietnamese governments – the men have denied any role in the events. Among them was Cambodian League for the Promotion and Defense of Human Rights (“LICADHO”) employee Leang Sokchouen, who was sentenced to two years imprisonment for disinformation. On 14 July 2011, the Appeal Court upheld his conviction and, in contravention of the principles of legality, changed the charge to one of incitement under the Penal Code, which was not in force at the time of Sokchouen’s arrest.

- On 19 December 2010 Seng Kunnaka, a United Nations World Food Programme employee, was convicted by the Phnom Penh Municipal Court of incitement on a non-working day for the court and sentenced to six months imprisonment for printing and sharing copies of an alleged anti-government article posted on blog-spot site KI-Media.
- On 17 March 2011 a motorbike taxi driver was convicted of incitement to discrimination by the Phnom Penh Municipal Court and sentenced to eighteen months in prison. The man in question claims that a woman passenger he picked up distributed anti-government leaflets whilst he was driving unawares.
- On 23 July 2011 the Cambodian Chief of Labour Protection and three others were arrested and detained for distributing leaflets asking the RGC to reduce the price of food, petroleum and other subsistence products. It was reported that they were released the same day after they agreed to sign a written affirmation that they would no longer distribute leaflets.
- In early 2011 five men were arrested for allegedly distributing anti-government leaflets in Takeo province. It was reported that the leaflets allegedly accused Prime Minister Hun Sen of selling land to foreign countries and referred to the Prime Minister as a “puppet of Vietnam” and a “traitor”. All five men were convicted by the Phnom Penh Municipal Court on 4 August 2011, and received sentences ranging from eighteen months to two years in prison.

### **The point of no return**

The right of freedom of expression includes the right to express offensive or dissenting language and opinions. The cases above, however, show deep paranoia within the RGC and demonstrate the lengths to which the authorities will go to stifle expression of disapproval or dissent by ordinary people through the distribution of leaflets. There has been a lack of explanation as to how the distribution of these leaflets constitutes a criminal act. The seeming willingness of the judiciary to find guilt has further shown the gavel being used to sustain and entrench severe violations of the Cambodian peoples’ right to freedom of expression. The conviction of the motorbike taxi driver sets a new precedent by imposing an obligation on all citizens not only to refrain from speaking their minds but to ensure they do not associate, even unwittingly, with those who do.

### **Conclusion**

The blanket suppression of leaflets expressing anti-government rhetoric or expressing a need for policy changes is an undue restriction of the right to freedom of expression and Khmer citizens’ rights to participate in the political life of their nation as per Article 35 of the Constitution. Communicating opinions and ideas through leaflets is one way ordinary Cambodian can advocate for change without resorting to violence. The RGC must recognize that freedom of expression is not simply one way in which people can advocate for change; it also represents an important safety valve for stability. Limiting freedom of expression instead of addressing issues and encouraging discussion can nurture fear, frustration and anger which can manifest itself in violence. The RGC must engage with those distributing leaflets rather than suppressing such action.

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